

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of the Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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**COMMENTS OF THE NEBRASKA PUBLIC SERVICE COMMISSION**

**I. Introduction**

The Nebraska Public Service Commission (NPSC) hereby submits the following comments in response to the Public Notice issued by the Federal Communications Commission (FCC) on August 17, 2005.<sup>1</sup> The NPSC appreciates the opportunity to comment on the proposals submitted by the Joint Board members and staff.

In 2004, the Joint Board sought comment on issues referred to it by the Commission related to high-cost support for rural carriers and the basis of support for competitive eligible telecommunications carriers (CETCs). Several individual Joint Board members and staff members filed proposals for consideration which were attached to the August 2005 Public Notice. The first proposal, referred to as the State Allocation Mechanism (SAM) is a reform package proposed by Joint Board Member, Commissioner Ray Baum from Oregon (referred in the August 2005 Public Notice as "Appendix A"). The

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<sup>1</sup> *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, FCC Docket No. 96-45, FCC 05J-1, (rel. August 17, 2005) (August 2005 Public Notice).

second proposal is a three-stage plan proposed by Joint Board Member Billy Jack Gregg (referred in the August 2005 Public Notice as “Appendix B”). The third proposal is an integrated package submitted by Commissioner Robert Nelson of Michigan (referred in the August 2005 Public Notice as “Appendix C”). Finally, the fourth proposal is entitled the “Universal Service Endpoint Reform Plan” or “USERP” and was submitted by Joint-Board staff members Joel Shifman, Peter Bluhm and Jeff Pursley (referred in the August 2005 Public Notice as “Appendix D”).

This proceeding is significant for Nebraska and rural states positioned like Nebraska. The NPSC submits these comments in support of the USERP plan attached to the August 2005 Public Notice as “Appendix D.”

## **II. Discussion**

The NPSC supports the adoption of the USERP (Appendix D) for the following reasons:

- 1) It is consistent with the universal service principles set forth in the Act;
- 2) It targets support to states that need support the most;
- 3) It advances the partnership between the Commission and states as envisioned in the Act;
- 4) It provides the Commission with a method that works with either embedded or forward looking costs;
- 5) It would be simple for the Commission to administer; and

6) It recognizes the differences in cost characteristics of the wireline and wireless networks.

**A. The USERP is consistent with the universal service principles set forth in the Act**

The USERP is designed to be consistent with the principles outlined in Section 254 of the Telecommunications Act. At the heart of Section 254 is the requirement that the universal service funding mechanism create affordable and reasonably comparable rates for consumers. See U.S.C. § 254 (b)(2) and (3). The USERP plan is specifically aimed at accomplishing these goals. This proposal recommends the Commission set an affordability benchmark. The benchmark suggested is 125 percent of the national average urban cost. States would ensure that support is allocated in a manner to keep rates affordable i.e., below the Commission determined benchmark. The benchmark would also ensure that rates are reasonably comparable in urban and rural markets. States would be responsible to the Commission in allocating support in a manner which meets the affordability and reasonably comparable requirements in the Act, but appropriately the Commission would remain the ultimate decision-maker in that regard.

## **B. The USERP targets support to states that need support the most**

The USERP proposal also efficiently targets support to the states which need support the most. States are uniquely positioned to determine carrier costs and the amount of support needed in a study area or more granular level. The plan would allow state commissions to look comprehensively at carrier costs including loop, port, switching and transport. Carrier operational costs would also be considered. The NPSC would recommend that the Commission create a unified approach to reviewing carriers costs such as that identified in the USERP.

## **C. The USERP advances the federal-state partnership**

### **envisioned by the Act**

Section 254 of the Act clearly envisions that a partnership will be formed between the federal and state governments to support universal service. *Qwest Communications Intern., Inc. v. FCC*, 398 F.3d 1222, 1231 (10<sup>th</sup> Cir. 2005). The USERP fulfills this vision. The Commission is best situated to determine what rates are reasonably comparable and affordable across state boundaries. The Commission has the ultimate responsibility to comply with the mandates in Section 254. See *id.* at 1232. State commissions also have an ongoing interest in preserving and advancing universal service, keeping rates affordable and in encouraging the deployment of advanced services within their borders. See 47 U.S.C. § 254(f). The USERP accounts for these interests by creating a collaborative process.

**D. USERP provides the Commission with a method that works with  
either embedded or forward-looking costs**

While the USERP recommends using an embedded cost inputs, it is not dependent upon this methodology. A forward looking cost structure would also work using this plan. This provides the Commission with the flexibility to decide which is more appropriate.

**E. The USERP would be a simple system to administer**

As the USERP creates a unified universal service mechanism it would be a simple process to link it to a unified intercarrier compensation mechanism selected by the Commission. The USERP is not tied to traditional separations limits but bases costs on carrier's costs from an omni-jurisdictional perspective. Accordingly, traditional separations limitations would not apply. Through the USERP, the Commission can ensure reasonable state allocation while at the same time permit states to determine where support is needed most within their jurisdictional boundaries.

In order to preserve the ultimate authority with the Commission the USERP requires reporting of state commissions and provides carriers with a petition mechanism for Commission review. The reporting/certification requirement in place at 47 C.F.R. § 54.313 was endorsed by the Tenth Circuit Court recently.

See *Qwest Communications Intern., Inc.* 398 F.3d 1222,1237 (10<sup>th</sup> Cir. 2005). The USERP adds upon that concept which has already been generally accepted.

#### **F. USERP recognizes the differences in the costs and characteristics of wireless carriers**

With respect to whatever mechanism the Commission chooses to endorse, the differences in costs and characteristics of wireless versus wireline carriers should be taken into consideration. There are fundamental differences in the characteristics of wireline and wireless networks. Principles of competitive neutrality do not require that wireless CETCs be funded by universal service support ported based on ILEC support. Differences in geographic scale, network design, and regulatory requirements demand separate consideration. The NPSC believes the USERP efficiently accounts for these differences. The USERP internalizes these differences rather than ignoring them. The USERP creates mechanisms by which the Commission can provide a sufficient support base to wireless carriers that is also explicit and predictable.

### **III. Conclusion**

For all of the foregoing reasons the NPSC requests that the FCC implement the “Universal Service Endpoint Reform Plan” to address issues related to high-cost support for rural carriers and the basis of support for competitive eligible telecommunications carriers.

Respectfully Submitted,

**Nebraska Public Service Commission**

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